DOCUMENT RESUME

ED 140 370 CS 501 727

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TITLE Rights in Conflict; A Report on the Annual Conference of the National Coalition Against Censorship (2nd, New York City, February 16, 1977).
INSTITUTION National Coalition Against Censorship, New York, N.Y.
PUB DATE 16 Feb 77
NOTE 34p.; Not available in hard copy due to marginal legibility of original document

EDRS PRICE MF-$0.83 Plus Postage. HC Not Available from EDRS.
DESCRIPTORS *Censorship; Communications; Conference Reports; *Freedom of Speech; Instructional Materials; *Legal Problems; Mass Media; Stereotypes
IDENTIFIERS *National Coalition Against Censorship

ABSTRACT

This report details the proceedings of the second annual conference of the National Coalition Against Censorship, which was held in New York City on 16 February 1977. Among the events covered is a panel discussion of possible limitations on free speech, conducted by four experts in the field of communicatons (Peggy Charren, president of Action for Children's Television; Nat Hentoff, "Village Voice" columnist; John O'Connor, "New York Times" television critic; and Harriet Pilpel, communications lawyer). The results of group discussions which followed are summarized, as are two other sessions: the purpose and role of the National Coalition Against Censorship and arguments for regulation of "reverse censorship," a covert form of sex, race, and ethnic stereotyping. Finally, the outcome of a plenary discussion is described and a list of conference participants is given. (KS)

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"RIGHTS IN CONFLICT"

A Report on the

February 16, 1977

SECOND ANNUAL CONFERENCE

of the

National Coalition Against Censorship

held at
Christ Church United Methodist
New York City

Prepared by
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A REPORT ON THE FEBRUARY 16, 1977 SECOND ANNUAL CONFERENCE
OF THE NATIONAL COALITION AGAINST CENSORSHIP
HELD AT CHRIST CHURCH UNITED METHODIST, NEW YORK CITY

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CONFERENCE PARTICIPANTS

February 16, 1977

NAME	ORGANIZATION (Note: People speak as individuals, not necessarily for their organizations)
Rosanne Allessandro	WNET, Channel 13
Mrs. Paul Anderson	
Alan Azzara	New York Civil Liberties Union, Nassau Chap.
Margaret Barrett	Free Public Library, Woodbridge, N.J.
Dell B. Bashkow	National Council of Jewish Women
Harrison B. Bell	Harper & Row
Barbara Bernstein	New York Civil Liberties Union, Nassau Chap.
Simon Michael Bessie	Harper & Row
Sara Blackburn	Writer
Jean Bond	Council on Interracial Books for Children
Helen I. Brady	Girl Scouts of the U.S.A.
Miriam Braverman	American Library Assn., Intellectual Freedom Comm.; Columbia School of Library Science
Fred Brancato	New York Foundation
Nancy Bush	Associated Councils of the Arts
Brad Chambers	Council on Interracial Books for Children
Daniel Ross Chandler	Speech Communication Association
Peggy Charren	Panelist
Bertha M. Cheatham	School Library Journal
Mary K. Chelton	Westchester Library System
Henry H. Clancy	American Book Company
Susan Clark	Media Coalition
David Cohen	American Civil Liberties Union
William Bergeron	Rhode Island Library Assn., I.F.C.
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Sidney W. Dean, Jr.	ACLU, Communications Media Committee
Anita Dore	New York City Board of Education
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Barbara Eichman	American Civil Liberties Union
David Eisen	The Newspaper Guild
Sylvia Eisen	Long Beach Public Library
H. K. Eynon	National Council of Teachers of English
Lee Feltman	Periodical & Book Assn. of America
Shirley Fingerhood	ACLU, Free Speech Committee
Phil Foglia	Italian-American Committee
Ralph J. Folcarelli	C.W. Post Center of Long Island University
William F. Fore	National Council of Churches of Christ
Thomas Freebairn	
Helen Ruth Freeman	NYC Assoc. of Teachers of English
Nancy Graham	National Obscenity Law Center

CONFERENCE PARTICIPANTS

Rodney Gerard	National Broadcasting Company
David W. Gockley	Religion in American Life
John Godwin	West Islip Public Schools
Charles Goldsmith	Reporters Committee for Freedom of the Press
Rev. William B. Gray	Parish of Trinity Church
Richard G. Green	Attorney
Amelia A. Grinstead	Girl Scouts of the U.S.A.
Nancy Gruber	Westport Public Library
* Jeremiah Gutman	ACLU, Privacy Committee
Jacqueline Nolan-Haley	National Obscenity Law Center
Robert Hallahan	National Association of Broadcasters, News Bureau
William Haubner	National Education Association
J. Richard Hartigan	American Library Association
Shirley Havens	Library Journal
Richard Heffner	Moderator
* Samuel Hendel	American Civil Liberties Union
Nat Hentoff	Panelist
Marcia R. Hoffman	Woodbridge (NJ) Public Library
Edwin S. Holmgren	The New York Public Library
Elias Holtzman	Newspaper Guild of New York
Julie T. Hoover	Dept. of Broadcast Standards & Practices, ABC
Bob Hubbard	Park Slope News
Cynthia Jenkins	American Library Assn., Intellectual Freedom Committee
Robert Spencer Johnson	National Council of Teachers of English
Leonard Kantrowitz	High School Reading, Title I
Leanne Katz	National Coalition Against Censorship
James R. Kirkpatrick	American Assn. of School Administrators
Joanna Komoska	EPIE Institute
Judith F. Krug	American Library Association
* Gara LaMarche	American Civil Liberties Union
Marion Langer	American Orthopsychiatric Association
Jerome Lansner	National Assn. of Broadcasters, Code Authority
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Bill McClurken	National Council of Churches
Ken McCormick	Doubleday & Company
Pat McGrady	American Society of Journalists & Authors
Robert Moore	Council on Interracial Books for Children
Roy D. Miller, Jr.	Brooklyn Public Library

CONFERENCE PARTICIPANTS

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Minnie R. Motz	Intellectual Freedom Comm., NY Library Assn.
Thomas J. Murphy	Holt, Rinehart and Winston
John J. O'Connor	Panelist
Noritada Otaki	
Kathleen H. Paroline	Rhode Island Library Association
Barbara Peters	Institute on Pluralism & Group Identity, American Jewish Committee
Eugene Pickett	Unitarian Universalist Assn.
Harriet Pilpel	Panelist
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Samuel Rabinove	American Jewish Committee
Bea Rathenbuecher	National Council of Churches
* Alan Reitman	American Civil Liberties Union
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Elizabeth J. Roberts	Population Education, Inc.
Harriet Rosenfeld	Wilson Library Bulletin
Elyse Rothaus	Conference reporter
Bernard Rubin	Institute for Democratic Communications, Boston University
Van Gordon Sauter	CBS
Steven H. Scheuer	TV Key, Newspaper Preview Service
Ned Schnurman	National News Council
Sally Schober	Caldwell (NJ) Public Schools
Albert Schwartz	Council on Interracial Books for Children
Nancy Seifer	Institute on Pluralism and Group Identity, American Jewish Committee
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Vivien Stewart	Carnegie Corporation
Shirley Whipple Struchen	Media Action Research Center, Inc.
Andrea Troy	National Organization for Women, Legal Defense and Education Fund
Ray M.S. Tucker	National Council of Jewish Women
Joan B. Turner	Westport Public Library

Morning Session

Introductory Remarks

The Conference began with brief opening remarks by William Fore, assistant general secretary for communication of the National Council of Churches of Christ, and David Randolph, the pastor of Christ Church.

Fore, who has convened the National Coalition's meetings for over three years, read to conference participants the Coalition's Statement of Concern, the basis for its work:

"Freedom of communication is an indispensable condition of a healthy democracy. In a pluralistic society it would be impossible for all people at all times to agree on the values of all ideas, and fatal to moral, artistic and intellectual growth if they did.

"Some of the participating organizations reject all barriers abridging access to any material, however controversial or even abhorrent to some, others reject barriers for adults, so long as their individual right of choice is not infringed. All of us are united in the conviction that censorship of what we see and hear and read constitutes an unacceptable dictatorship over our minds and a dangerous opening to religious, political, artistic and intellectual repression."

Fore also emphasized that the Coalition is not an official programmatic entity. "We are a voluntary organization of people," Fore said, "with a modest staff and a not immodest budget, come together to explore a very important issue in our lives and in our society."

Dr. Randolph welcomed the Coalition to his church, and added: "We're glad you're here in a church rather than in a hotel somewhere, because it underscores the common cause that we all have in the concern for the First Amendment and freedom."

# # #

Panel Discussion

Four experts in the field of communications discussed possible limitations on free speech during a panel discussion which began the day-long conference. The audience heard remarks from Peggy Charren, president of Action for Children's Television (ACT), Nat Hentoff, Village Voice columnist; John O'Connor, New York Times television critic; and Harriet Pilpel, a leading communications lawyer. Their discussion was moderated by Richard Heffner, chairman of the code and rating administration of the Motion Picture Association of America.

The panelists discussed a variety of possible allowable abridgements to freedom of speech, weighing such considerations as the unique nature of television and conflicts with other constitutional rights. The panel was instructed to speak to the question: "Is there a line between group expression of opinion--legitimate and desirable participation in the democratic process--and undesirable pressure on a channel of communication? Whose rights are involved, and when?"

Two of the panel members--Nat Hentoff and Harriet Pilpel--came out strongly against any limitations whatsoever on free speech. "At 1:45, a number of people are going to be speaking about permissible, desirable regulation of speech," Hentoff said. "Without having heard them, I disagree with them entirely." Said Pilpel: "There must be no restraint permitted on freedom of speech in the absence of compelling necessity, and the other side must demonstrate the compelling necessity."

Peggy Charren and John O'Connor were less broad in their remarks, restricting themselves to the peculiar problems of television. But both expressed wariness over the dangers implicit in any governmental regulation of expression.

After opening statements from each of the panelists, moderator Heffner led the panel into a prolonged discussion which focussed mainly on the controversial Fairness Doctrine, which requires broadcasters to present contrasting points of view when dealing with a controversial issue of public importance, and which was thrown out for discussion by O'Connor in his opening remarks.

While all four panelists recognized some problems with the Fairness Doctrine, Hentoff was the only panel member to oppose it outright. The Village Voice columnist spoke strongly against the doctrine, stressing that television must have freedom equal to the print medium. "The Fairness Doctrine is doing to television," Hentoff said, "what nobody--not even the Burger court--would dare to do to a newspaper or a magazine. I think it's flatly wrong."

Hentoff said that mandating anything in terms of content gets him worried. "As horrendous as much of television is," Hentoff said, "I think anything that gets the government involved in content is censorship."

Hentoff dismissed the scarcity argument usually promoted by Fairness Doctrine proponents, saying that a limited number of channels does not exist relative to the printed press. "I defy you to find me more than two places in the United States where there aren't more TV channels than newspapers," Hentoff said. "In terms of numbers," he said, "access to newspapers is much more difficult."

Charren agreed that there are "tremendous censoring aspects" in the Fairness Doctrine, but felt that at present it remains the only effective means available to the public to obtain access to television. She emphasized that, among other things, criticism of broadcasting itself has been virtually eliminated from the airwaves by the networks. Said Charren: "If ACT wants to come on and say 'That's just one side to the story,' the only doctrine we could use to get our case across is the Fairness Doctrine."

Pilpel agreed with Charren. She opposed Hentoff's censorship argument by stating that the fairness doctrine is a "neutral principle" devoid of censorship elements. She also disputed Hentoff's claim that the scarcity argument doesn't hold, contending that there is never TV time available in any of the top 50 markets. "The Fairness Doctrine," concluded Pilpel, "is not a violation of the First Amendment, but a way of effectuating it."

O'Connor backed up Pilpel, saying that there is a noticeable lack of access to "get back at the TV." He cited the ABC special Roots, which reached an estimated audience of 80,000,000 people, as evidence of the phenomenal power of the three major networks. And he pointed out that, to the networks, the Fairness Doctrine is basically an economic issue. In his view, the networks do not find it feasible to make time for all points of view. This causes the networks to act as self-censors by avoiding controversial issues.

Hentoff conceded that the power of the networks is indeed tremendous. "There have never been more dangers in the history of the republic," he said, "than there are from the powers of television." But he remained unshaken in his opposition. When asked by Heffner if he thought that a suspension of the Fairness Doctrine would improve the quality of television, Hentoff replied that although it might not, "it would at least keep people from complaining that they weren't doing anything" because of the doctrine. "Justice Burger even said it," Hentoff submitted. "Bad journalism is also protected. Journalism must be unfettered--no Fairness Doctrine, no nothing."

Heffner then turned the discussion to the future possibilities of cable television, and whether or not it may some day make the Fairness Doctrine obsolescent as a means for insuring access and effective diversity on the airwaves. He directed his question to Pilpel, who had pointed to cable as an eventual successor to the Fairness Doctrine during the previous discussion.

Pilpel responded that since "there could be as many cable channels as there are telephones," access would eventually be available to all, and there would be no need for the Fairness Doctrine.

But Heffner remained unconvinced that cable TV could ever serve, as does the Fairness Doctrine in theory now, to protect the mass audience from the "paucity" of input. "I've never seen that the kind of diversity which may be provided by cable will solve the problem," Heffner reiterated.

Hentoff agreed. "At the moment, to have any faith at all in cable television--especially if you live in New York and have seen what's on it--is to require a kind of a Kierkegaardian leap into real faith," Hentoff said. He feared that the impact of cable would always be local, and would not affect the mass audiences that watch major network programming. "I'm not arguing for the Fairness Doctrine," Hentoff warned. "I'm just recognizing the problem. I think this is one of those situations in my, perhaps, eccentric libertarian views in which there is no satisfactory answer."

Earlier in the morning, Peggy Charren spoke about the genesis and accomplishments of ACT, which she organized with friends in 1968.

The founders of ACT were concerned, said Charren, that children's television in 1968 was mostly "wall-to-wall monster cartoons." However, ACT floundered without doing much for about a year, Charren said, while deciding how to proceed. "We weren't sure," she said, "what we could say--if anything--about the content of programs without raising the hackles of censorship."

But ACT soon began to move. It began by working within the FTC mandate against misleading or unfair advertising. By calling for the removal of certain commercials, with the eventual goal of removing all commercials from children's television, ACT hoped, in Charren's words, to free the broadcaster to think about the child before the advertiser.

ACT has made some progress, in Charren's view, since 1968. "We've gotten rid of some of the advertising on children's television," she said, "and we've even increased the diversity of offerings for children."

Charren then emphasized that ACT is also very concerned about prime-time violence and the rest of the broadcast day, in addition to the regular children's fare. She said that children watch, on an average, over 25 hours of television a week, and that 84% of what they watch isn't children's television. ACT feels that putting the onus on parents to monitor their children's viewing habits is not a feasible solution. "It's too easy to say they can turn off the set," Charren said.

Instead of taking such a simplistic approach, Charren said, ACT is working to increase diversity in children's programming in a number of ways. It is pushing technological changes--such as cable and satellites--which would seem to allow a greater mix in the TV fare. It is working at changing minority and female hiring practices in broadcasting, so that these groups might have more responsibility for programming, and possibly effect change. And it is pushing for representation on the regulatory agencies that control broadcasting as well.

In addition, Charren said, ACT is trying to increase, through hearings and open license renewal processes, public participation in the programming process. It hopes that participation will create a more aware public. "We think," Charren said, "that increasing opportunities for people to participate will lead to a public that wants to participate."

Charren also noted the complications which public participation brings. "It's at this point," she said, "when the public demands access, that we get the screams of censorship."

As well as recognizing the problem, Charren said, ACT is also unhappy with network solutions like the Family Hour which don't address the issue. And she noted potential problems with some of ACT's own attempts to deal with the situation. Through use of the violence index, ACT is now putting pressure on advertisers not to sponsor certain programs. "We have to worry whether it is an infringement of our rights," Charren said, "and whether or not this is another form of censorship."

Charren concluded by noting that there is much less advertiser involvement in program content today than in the early days of television, and asked: "Is this a desireable phenomenon?"

Nat Hentoff concentrated his opening remarks on educational issues, beginning with high school journalism. Speaking in the context of his "absolutist" First Amendment views, Hentoff said that "the constituency for freedom of expression in various parameters of the First Amendment is rather weak." "And he blamed this on the lack of a proper educational environment.

"People, in all those long years in proximity to education," Hentorf said, "get very little understanding at all of the First Amendment, mainly because their teachers came out of the same educational environment." Hentoff said that studies in 1971 and 1974--years after the Tinker decision affirming high school students' F. A. rights--showed that censorship was pervasive in high school journalism, and that students had no sense at all of their First Amendment rights.

"In the last 18 months though," Hentoff noted, "there has been a very interesting upsurge of cases, particularly in California." Hentoff said that there are more cases in the courts now on high school students' rights than ever before, which he saw as hope for the future. In addition, Hentoff added that the Reporters Committee for Freedom of the Press has set up a Student Press Law Center (a coalition participating organization) in Washington which represents to his knowledge, the first clearinghouse ever on the issue of student's First Amendment rights.

The remainder of Hentoff's comments were directed at textbook selection and library materials. Hentoff reviewed recent developments in the area including a Sixth Circuit Court of Appeals decision in Strongsville Ohio, which said the First Amendment prohibits school boards from removing books which are in school libraries, and the textbook selection guidelines handed down by the New York State Board of Regents, which pleasantly surprised Hentoff by prohibiting the schoolwide banning of materials at the request of a group of concerned parents.

However, Hentoff's primary interest in the area was with students rights. "One can't dismiss parents entirely under the rubric of professionalism," Hentoff said. "And what about the child? Don't kids have rights that supercede the parents?"

Hentoff said that Justice Douglas had said as much in his opinion in the case of Wicconson v. Yoder, which allowed Amish parents to pull their children out of school after the Eighth Grade.

Finally, Hentoff took note that 91 years after Huckleberry Finn was first banned by the Concord, Mass. public library, Mark Twain's children's classic is still in trouble with groups who consider it racist and want to ban it. Hentoff said he opposed banning even racist books, called that censorship, and asked: "Why not introduce these kids to something useful to them--an authentic exchange of live ideas."

"If you want to expose a bad, pervasive idea," Hentoff said, "the way to do it is with another idea, not by stomping the first one into the ground."

John O'Connor followed Hentoff. In brief remarks, he questioned whether television, as an "unprecedented machine," should have First Amendment rights equal to the print medium. O'Connor said that there is very little access to television, and "no mechanism for the exchange of ideas." He noted that the Fairness Doctrine provides some access, but called it a form of censorship. The crucial question here, said O'Connor, is which way does it flow? "Is the Fairness Doctrine censoring the networks, or are the networks censoring ideas?" O'Connor asked.

Harriet Pilpel was the final panelist to present opening remarks at the morning session. Pilpel attempted to wade through the confusion around censorship by outlining the various ways in which censorship occurs, and expressing her reactions to each.

At the outset, Pilpel made her intolerance of censorship clear. She then pointed out that there is a long standing constitutional doctrine which states that the government must prove a "compelling necessity" before infringing on any constitutional right, and wondered why the courts have never applied that doctrine to obscenity cases.

Pilpel broke down all censorship into four types: race or religion, sex, violence, and politics (RSVP). She said that most censorship has to do with sex, and charged that the Motion Picture Association's "R" Classification of "All The President's Men" (later changed), for the use of the word fuck shows the insanity of all censorship, whatever the type.

Censorship on the grounds of race or religion is, for Pilpel, the greatest personal problem. She said she is most uncomfortable when a race or religion is depicted in a bad light. However, Pilpel said she agreed with the Supreme Court' landmark ruling in Near V. Minnesota, in a case involving "snake-faced Jews," which said that prior restraint of the press was unconstitutional. "While it makes me uncomfortable," Pilpel said, "I would not for one moment tolerate censorship on the grounds of religion or race."

Pilpel broke sex censorship into two types: words and depiction of sexual acts. She noted that fuck remains the most unpopular word, although it is the only so-called "four-letter word" which has been found by the Supreme Court to be a "permissible expression" of free speech. In that case, the Court ruled that a jacket bearing the slogan "Fuck the Draft" was one young man's way of expressing his opposition to the Vietnam War and the draft. Pilpel then said that there had been a great advance in the toleration of depiction of sexual acts by the Supreme Court. She pointed to the "Carnal Knowledge" case as an example of the fact that the Court is no longer as narrow-minded in this area as it once was.

Violence is another area which causes Pilpel discomfort, but she said she would be "even more uncomfortable if an effort were made to prevent the violence." She also noted recent attempts by consumers to pressure advertisers into boycotting violent programs on television. Pilpel said she had not fully made up her mind on such tactics, but tended to support them.

"The political area," according to Pilpel, "is the greatest area of danger, and the one we hear the least about." Pilpel's greatest worry in this area is political censorship in the guise of sex censorship, which she finds to be fairly prevalent. She cited two examples where student publications were persecuted for political reasons under the guise of an obscenity prosecution. Fortunately, said Pilpel, the Supreme Court reversed both convictions, one of which was for a cartoon depicting the rape of the Statue of Liberty by the police.

In addition to the RSVP censorship forms, Pilpel outlined what she called less recognizable covert forms of censorship. Pilpel said that libel and privacy laws lead to self-censorship. Zoning and nuisance laws, she said, are often used to prevent sexual freedom of expression in print. Even sex education laws, in her view, often serve to censor free speech.

"We are least sensitive," said Pilpel, "to the fact that (such laws) are just as much censorship, with just as much inhibiting powers as the ones we talk about as "censorship.""

In concluding the panel discussion, moderator Heffner brought up the problem of group expression by parents. "Is it a legitimate, desirable part of the democratic process," Heffner asked, "when you try to draw the line between group expression and government regulation?"

Pilpel felt the government cannot solve the problem of parental control over children, and therefore shouldn't be involved. The only tension recognized by Pilpel is that between parents and children, especially in the area of reproductive freedom. And there, said Pilpel, the rights of the child must prevail. She was referring specifically to the right of abortion without parental consent.

Hentoff saw a clear difference between conscientious objection to materials by a parent or group of parents and an organized national campaign, which he called unconstitutional. Hentoff noted that a parent who sends a child to school puts him in the hands of the state. "There has to be some way to accommodate the rights of parents," he said, "providing the kid has some say himself."

In his earlier opening remarks, Hentoff had mildly criticized ACT, and Heffner ended the session by asking Hentoff what problems he found with ACT?

Hentoff replied that most of what ACT has done has been productive. "You have set up an adversary relationship between the consumer and television," Hentoff replied, "and that's healthy."

# # #

Group Discussions

Following the panel discussion, those present at the conference split up into eight groups which separately discussed issues brought up by the panel. A sampling of several of the groups made it apparent that the textbook selection issue was uppermost in people's minds. Some groups also spread the focus of their discussion to television, while others considered the broad scope of government regulation of expression.

The textbook selection discussions seemed to pick up where the panel members had left the situation and moved quickly to the children's rights. Several questions were raised during most of the discussions. Most dealt with when, if ever, a child's right supercedes his parents'.

There seemed to be strong sentiment that biological parenthood does not bring with it the right of control over a person's mind. One person argued that parents give up their rights over their children when they send them to school. If so, another answered, then those rights have been extorted, since parents have no choice but to send their children to school.

Various attempts were made to formulate an age at which the right of the child takes precedence. Most present felt that some distinctions had to be made but were unwilling to draw a line. One person argued that rights should not be pre-etermined by age but on the ability to function in a democratic society, which begins in the first grade.

Most of the talk about television appeared to center on violence and how to control it. It was generally agreed that the idea of parental control is a myth in today's society. But it was pointed out that studies on the effects of TV violence are inconclusive--some experts say it provides a healthy outlet. And what if the experts did agree, it was asked? Could TV then be censored?

Some said that TV's impact is far stronger than that of the print medium and must be controlled. One person said that we must respect the right of the government to protect the rights of society as a whole.

Others favored an exchange of ideas on the problems relating to television, as an alternative to government censorship.

On the question of government regulation of speech in general, there appeared to be little agreement on where the lines should be drawn. All present seemed anxious to avoid censorship at all costs, while recognizing the difficulty of determining precisely what censorship is when rights come into conflict.

# # #

LUNCH

The National Coalition Against Censorship

The National Coalition Against Censorship helps national, non-commercial organizations to develop a broad educational approach to the dangers of censorship in an open society. In a short statement following lunch, Bill Fore gave some insight into the workings of the Coalition, reviewing some of what it has done in the past and outlining two future projects which are currently in need of funds.

The projects, which Fore feels hold great promise, involve a feasibility study for the establishment of a Clearinghouse for First Amendment projects, and a "prototype regional conference" based loosely on the Coalition's national conferences.

Regarding the Clearinghouse project, Fore said that no such correlation of First Amendment undertakings now exists in the United States. He said that a favorable feasibility study would facilitate fundraising for the long-term operation of a clearinghouse. "This is really vitally needed in the nation," Fore said.

The purpose of the prototype regional conference, Fore said, is to increase participation in the Coalition's process among groups which lack the funds to send representatives to the national conference in New York. Current plans call for conferences in three or four places around the country, Fore said.

"If you know where we might begin to get some funding for these two projects," Fore told his audience, "please let me know."

Fore also brought conference participants up to date on previous issues taken up at meetings of the Coalition, including: government secrecy, non-governmental pressures on film (with Peter Davis, the maker of "Hearts and Minds"), private pressures on textbook selection, pre-publication censorship of Victor Marchetti's book on the CIA, and the Fairness Doctrine.

Fore mentioned that the Coalition operates on an annual budget of less than $30,000 with a skeletal staff consisting of National Coordinator Leanne Katz and part-time secretary Amy Sickind. From Chicago, Judith Krug carries out state and local coordination. "Our miniscule budget can always use support," Fore said.

In response to a question, Susan Clark of the Media Coalition agreed to provide information about state legislative activity relating to so-called obscenity for circulation with a report on the Conference.

Fore concluded with a brief apologia for those who may consider the Coalition's work subtle and behind the scenes. "We try to be kind of an early warning system," Fore said, "so that when the evil day comes again, people in our member organizations are prepared." Fore said that the Coalition is doing some significant First Amendment work, and while it is at times undramatic, it fulfills a crucial function in American society.

# # #

Afternoon Session

Some Arguments for Regulation

At the start of the afternoon session, the Coalition heard representatives from two organizations charge that a covert form of reverse censorship currently permeates American society, while a third group presented a proposal to neutralize some of the effects of that censorship.

Representatives from the Council on Interracial Books for Children and the Italian-American Committee sounded calls to action against what they see as race, sex and ethnic sterotyping in the communications media. In a brief address to the assemblage, Robert Moore of the Council on Interracial Books called for government regulation of the process for selecting educational materials. And Phil Foglia of IAC urged affirmative action by the media to dispel the sterotypes it has created for Italian-Americans and other ethnic groups.

The National Organization for Women's Legal Defense and Education Fund then followed with a plan which it called a "constitutional and practical method" for eliminating sex-bias in textbooks for use in public schools.

Much of the talk, then, centered on instructional materials.

"Educational materials have traditionally represented the perspectives and concerns of upper class white males who control this society," Moore stated in his remarks. "Through a process of covert censorship, these materials have failed to represent the perspectives and concerns of racial minorities and of women."

Moore said that the information and values which children learn in schools largely determine their ability to function responsibly and productively in society "as human beings who can relate openly and honestly with others." Thus, he continued, education must share a large part of the blame for the racism and sexism that exists in society." Instructional materials," Moore said, "have played a significant role in public education's reinforcement of racism and sexism."

To combat "the self-serving perception of reality created by the powerful upper-class white male establishment which controls the publishing and communications industries," the Council on Interracial Books supports the regulation of instructional materials selection "to insure that educational materials reflect the reality of this pluralistic society as perceived by all groups." Since publishers, in the Council's view, are primarily concerned with sales," we make a serious error if we expect the

educational publishing industry to be the mainline defense of free expression and equal protection under the laws," according to Moore.

In order to justify the position of the Council, Moore earlier laid out a quasi-legal argument which sought to accommodate its views within acceptable constitutional construction. Moore claimed that the Equal-Protection Clause of the Fourteenth Amendment supercedes the First Amendment rights of authors and publishers within the public school environment. According to Moore, it is the responsibility of the state under the Fourteenth Amendment to assure all students equal protection under compulsory education laws by insuring that texts used in the schools do not infringe on their human rights and freedom.

"A critical aspect of freedom is human dignity," Moore said. "Every child is entitled to develop her or his human potential to the fullest extent without being crippled or handicapped by racial or sexual restrictions, biases, and stereotyping." And, said Moore, since race and sex are "unalterable conditions of being," they differ fundamentally from a person's political ideology or religious philosophy, which should be freely debated and attacked. Racist and sexist textbooks, in Moore's view, assault conditions which must remain sacrosanct if equal protection is to exist.

While stressing regulation, Moore said that the Council recognizes that enforcement is also very critical. "We support the efforts," Moore said, "of minorities and feminists to forge a process by which the perspectives of those who are most victimized by, and most sensitive to, the biases of textbooks become instrumental in creating and implementing those regulations."

Shortly after Moore's remarks, the NOW Legal Defense and Education Fund put forth a specific proposal for textbook regulation which it felt would eliminate sex bias in educational materials. Read by Leanne Katz for the absent NOW representative, the five-part proposal was addressed to public elementary and secondary school systems only, since according to NOW, "First Amendment considerations appear to have different implications when applied to private or post-secondary educational institutions."

The NOW Fund's plan would require all new textbooks selected for schools to be free of sex-bias, and all sex-biased texts already in use to be accompanied by efforts to overcome the adverse effects of the biases. To the latter end, it would mandate a remedial action program which would train teachers in counteracting sex-biased materials and show students how to deal with sex-bias in materials.

Unlike the regulatory push of the Council for Interracial Books, which is directed at the state level, the NOW plan is aimed at the federal government under Title 9, the 1972 Higher Education Act. "Clearly," according to the NOW Fund, "when students are required by their schools to read sex-biased textbooks, they are suffering discrimination on the basis of sex within the meaning of Title 9."

According to the statement, the federal government has failed to regulate in this area because it feared that "grave constitutional problems concerning the right of free speech" would be raised. However, the NOW Fund contends that the First Amendment does not create a blanket prohibition against government control of curriculum and educational materials.

"Certainly," said the statement, "the power exercised routinely by state and local authorities to select classroom materials is subject to review under the federal government's broad authority to place conditions on the expenditure of its own funds."

In accordance with this position, the NOW Fund proposal would require the Department of Health, Education and Welfare to develop and promulgate guidelines for state and local authorities to use in evaluating textbooks and other materials for sex bias.

Earlier in the session, the Italian-American Committee's Phil Foglia, speaking about exploitation of Italians by the media, presented an example of the type of content his group deplores in educational material:

> "I no can make myself again,
> and change into American;
> and so I am what chu calla me,
> just a dumb old dago man."

The poem, Foglia said, is called "What Is A Dago?," and was published in 1971 in a text called Sidewalks, Gunboats and Ballyhoo, by the nation's leading textbook publisher, Scott Foresman and Company.

Although Foglia quoted from a textbook, his was a broad attack aimed at all segments of the media. "The commercial interests who have created communications kingdoms in our country," Foglia said, "have often seized upon the worst instincts in our society while censoring what they claim to be unmarketable."

For Italian-Americans, Foglia claimed, this has meant being scapegoated for crime in American. "Italian-Americans have a murky sense that they have been selected as an outlet for racism which can no longer be vented against blacks," Foglia said, "but which must find some expression because it is too strong a habit to contain."

Foglia was especially critical of the major TV networks, which he said "continually and singularly portray Italian-Americans in a shockingly negative light." And he particularly castigated ABC as "by far the most irresponsible." For Foglia, a front-page editorial in the Italo-American Times summed it up: "ABC Image-Makers Strike Again;" the headline read:"Blacks have Roots but Italos Are Groups." Foglia then quoted from the editorial.

"On numerous occasions ABC has oftentimes been unkind to those of Italian heritage. It is interesting to contrast ABC's 'Roots' with ABC's brutes: the station's portrayal of Italian-Americans as bums, buffoons and gangsters. The Italo equivalent of 'Roots' was, another 12-hour series called 'Rich Man Poor Man,' wherein a main character, Falconetti, , is portrayed as a despicable, mindless, brute with no redeeming qualities."

In addition, every ABC-TV crime drama series begins with anti-Italian themes, spotlighting classic stereotypes of the Italian gangster, according to Foglia. And few Italians can be found appearing on important network shows. .

But the worst problems for Italians at ABC, according to Foglia, lies in their selection of movies for the national television audience. This list has been cluttered, in his view, by films like "Crazy Joe," "The Sicilian Clan" and "Stiletto," which exploit and scapegoat Italian-Americans.

In 1975, the Italian-American Committee felt the situation at ABC was so bad that they petitioned the FCC to deny the station's license-renewal. Foglia said that ABC was charged with failure to meet Fairness Doctrine standards in its treatment of Italian-Americans. As did all attempts to talk things out with the network people involved, the license challenge failed.

Meetings at CBS and NBC were, in Foglia's view, "hardly more successful. "NBC made a token gesture of filming 10 programs on Italian-Americans for their 'Knowledge'series that airs at six o'clock in the morning," Foglia said, "while still retaining the right to broadcast that super crime extravaganza 'The Godfather.'"

Foglia stressed that such actions by the networks represent a dereliction of duty by publicly-licensed mediums of communication, and that the "gross insensitivities" of the media have increased a group sense among Italian-Americans of alienation and detachment. "As groups feel more powerless and voiceless," Foglia said, "[they] are less prone to look with suspicion on those who would inhibit freedom of the press, as they feel as if their group identity has been totally censored by the process of a malicious distortion."

Foglia asserted that a remedy need not involve regulation or banning. "Perhaps," he said, "in simple justice and in an enlightened self-interest, the media might consider whether it has some affirmative duties toward groups it has maligned."

Nonetheless, he left the gathering with a thinly-veiled threat. "Otherwise," Foglia said, "the de facto censorship which has been perpetrated on Italian-Americans and other ethnic groups will have to be redressed by less palatable solutions."

# # #

Plenary Discussion

The regulation arguments were followed by a lively plenary discussion of over an hour's length in which all conference participants, including morning and afternoon panelists, traded arguments in a spirited and often emotional session.

Panelist Nat Hentoff delivered a strong impromptu rebuttal to the guests who had urged limited regulation of speech in the previous session, sparking articulate responses from two participants from the Council for Interracial Books. The ACLU's Gara LaMarche delivered an eloquent plea for the right of all views to be heard in society, including those which some deem to be pernicious. And Ben Logan of United Methodist Communications outlined a current program sponsored by that organization and others, which is an educational alternative to censorship.

Two of the morning panelists also returned to discuss the likelihood of a new Supreme Court definition of obscenity resulting from the recent convictions of two leading purveyors of sexually explicit materials.

Hentoff got the session moving with his rebuttal, which was aimed at the earlier remarks of Bob Moore, Phil Foglia and the NOW Fund urging limited regulation of free speech. "I must say," said Hentoff, "that the thrust of all three statements struck me as just short of Czechoslavakia, however noble the intent."

Hentoff charged that the three groups were urging censorship, however they chose to euphemize it. Addressing an argument Moore had put forth as a foundation of his position, Hentoff gave little weight to the concept of race and sex as unalterable conditions of being.

"That I'm willing to stipulate is correct," Hentoff said. "But racism and sexism, however those are defined -- and they're defined in an infinite number of ways -- those are expressions of speech and of thought. And I think it is evading the issue to say that race and sex are unalterable, and therefore they cannot be discussed."

The problem, in Hentoff's view, is simple: "Do you have a robust exchange of ideas within this free society -- as dangerous as that is, as risky as that is -- or do you begin to start cutting down on the First Amendment?" In his view, any sort of thought control is censorship, and as such."dangerous stuff."

"Who decides?" Hentoff asked. "Who on earth decides whether a book is sexist and to what degree it is sexist?" Hentoff noted that Joan Didion and Maurice Sendak have been attacked by some feminists as sexist. "What you're doing is opening up a whole lot of possibilities for people unnamed and of unnamed backgrounds to hassle libridrians and teachers," he said. Hentoff said that a teacher or librarian has the First Amendment right to decide what he or she wants, without the aid of concerned committees, vigilante or otherwise.

Hentoff's comments brought forth lucid rebuttals from two members of the Council on Interracial Books. Jean Bond first reminded the conference of the concept of covert censorship, which she felt was getting lost. "Mr. Hentoff expresses great concern about who will decide if indeed there are to be some selection criteria established," said Bond. "But I don't hear any concern on his part about who decides now."

Bond charged that a long established and systematic process to suppress certain viewpoints exists in this country, and said that the Council seeks to undo that process. "This is where an organization that stands against overt censorship ought to address itself -- to that kind of censorship," Bond said.

Shortly thereafter, Albert Schwartz, also from the Council, spoke about the need for a method to facilitate change. "Some of our arguments against censorship can go to maintain the status quo," he said, "and I think that's the largest problem."

Schwartz said that today, the publishing houses, the newspapers and TV are making the decisions for the schools and libraries with little or no input from minority people. This has resulted in white male authorities keeping books in the schools which severely disturb minority students.

"We know we don't want censorship," Schwartz said. "But do we want to maintain all aspects of the status quo? The argument against censorship is a double-edged sword. If we say we are going to maintain a book, going to keep it, what else are we keeping with it?"

Immediately preceding Schwartz, Gara LaMarche of the ACLU rebuked the Council and the two other groups for censorship, and urged that harmful texts be fought instead by adding new materials.

"The way to fight bad ideas," said LaMarche, who also teaches nursery school, "is with good ideas, by adding the good ideas, and I think you really have to call what you're doing censorship, because that's what it is." LaMarche called the covert censorship and Fourteenth Amendment arguments of the Council "specious

ways of convoluting the issues," and said that the regulation demanded by the three groups bears a "significant relationship to other kinds of thought control."

"What we have to do," LaMarche stated, "is to stand up for the rights of all kinds of views to be heard, and that should never ever involve the suppression of views which we think are pernicious."

Near the end of the program, Ben Logan of United Methodist Communications took LaMarche's solution one step further by posing the possibility of structured educational alternatives to censorship. Logan, who is involved in such a program, called "Television Awareness Training," said that such solutions can serve as "antidotes to poisons" by raising awareness to the secondary messages on television--the stereotyping, the sexism, the corrosive effects of violence. "These are positive responses to negative programming on television," Logan said.

The Television Awareness Training program involves regional workshops around the country which teach people to use television in a very different way. "I think there's a tremendous amount of power in learning to use television in a constructive, aware way," Logan said. He said that people who have been through the workshops have profited greatly from it. "They are empowered," Logan said, and "they no longer have to be victims of the system."

Earlier in the session, Mary K. Chelton from the Westchester Library system commented in response to the statement from the Council's Bob Moore. Chelton made several points: first, that children have rights in the textbook process also. "I hate to see kids as a powerless minority having anyone's decisionmaking forced upon them," Chelton said. She added that she thinks the Council overestimates the effects of textbooks on children.

Secondly, Chelton confessed to be "worried" by Moore's portrayal of the Council's view of racial minorities and women because they tend to emerge as "monolithic" groups. Chelton, a self-styled feminist, said that there is hardly a unified perspective on what it means to be a feminist or a member of a racial minority. "I think you're in danger of being called simplistic politically," Chelton said, "as well as censorious in the First Amendment sense."

Finally, Chelton noted that she understood the group's frustration. "Unless there is some sort of equal access to wealth," Chelton said, "I can't see equal access to information."

A few members of the audience earlier chose to pose specific questions to the speakers from the previous session.

Gerald Pomper of the ACLU had begun the session by asking Moore for his position on material such as The Merchant of Venice or Manchild in the Promised Land, material that is "notable in literary or artistic terms, may even be accurate, and yet can offend sensibilities." Pomper wished to know if in Moore's view one ought not to use such material.

In response, Moore said that, akin to the NOW statement, material such as that mentioned by Pomper could be effectively used in the classroom by teachers who have received proper training. "If you started excluding every piece of literature that contained any bit of race or sex bias in it," Moore said, "the classrooms would be rather empty."

Moore pointed out that high school students--who are the ones likely to be given such materials--would eventually come into contact with those concepts, whether through the media or through written materials outside the classroom.

"We would strongly urge schools," Moore said, "to provide the in-service or pre-service training that would equip teachers to use those materials in a constructive way in the classroom; to help students to see those problems and help them deal with those problems in literature."

Steve Scheuer, author and TV columnist, then challenged Phil Foglia's criticism of the film The Godfather, of which Scheuer said he was an admirer. "A lot of distinguished critics think it was a work of art," Scheuer said," and one of the major American films of the decade. Can you articulate for me the reasons you would give for network television not broadcasting a film like that?"

Foglia responded by qualifying his earlier remarks. "The Godfather is not in the category of some of the other movies I mentioned," Foglia stated. "But I mentioned The Godfather for a single reason --because it was so well done, so artistic and so well received, it had the most impact on this country in terms of what people perceived the image of Italian-Americans to be."

Foglia noted that the movie was anti-Catholic in addition to being anti-Italian, and charged that most people viewed it as a "very obvious and distorted attempt to focus in on Italian-Americans in America."

Foglia said that the movie viewed by itself was acceptable, but not within the context of the way Italian-Americans are depicted on television. "We did a study of movies on ABC," Foglia said, "that showed 50 Italians portrayed as main characters in these movies, and every single one of them was a criminal."

Near the end of the session, Bob West of the Unitarian Universalist Association asked for a volunteer from among those in attendance to discuss the possibility of new Supreme Court definitions of obscenity arising out of the recent obscenity convictions of Deep Throat star Harry Reems in Memphis and Hustler publisher Larry Flynt in Cincinnati. Two of the morning panelists chose to address the question.

Nat Hentoff said that neither case was likely to affect "the Supreme Court's utter confusion on what obscenity is." Hentoff noted that the Reems case will be heard after the Court rules on a similar case coming out of Kentucky in which the Solicitor General has already confessed error for trying the defendant on Miller obscenity standards while the alleged criminal activity occurred prior to that 1973 Supreme Court ruling. [Editor's note: Since the Conference, the Supreme Court has ruled in favor of the defendant in the Kentucky obscenity case.] "If the Supreme Court decides to approach the case on that ground, then Harry Reems will be free," Hentoff said. "And I doubt the Miller decision will be affected thereby."

Hentoff said that in the Flynt case, the obscenity count will probably be obscured by the charge of conspiracy to engage in organized crime.

"The Supreme Court justices know there is something wrong," Hentoff added. "What case will trigger a change I don't know. It may be Larry Flynt. He may contribute vitally, almost against his intentions, to the history of the First Amendment."

Harriet Pilpel then commented. "Much too much attention is being paid to what the Supreme Court said in Miller," Pilpel said. "I don't think they know what they said, and I don't think anybody else knows what they said. In considering obscenity censorship, you look at what they did rather than what they said."

Pilpel noted that immediately following the Miller decision, the Court reversed obscenity convictions in a number of cases, including the infamous Carnal Knowledge case in Georgia. "I think the obscenity issue is going to remain clouded in obscurity probably until the Black-Douglas position is adopted," Pilpel said.

Pilpel said that in the two cases in question, those of Reems and Flynt, she does not look for much help as to the language of what constitutes obscenity. However, she said that the two cases may allow the court to remove people such as printers, distributers and newsstand owners from the scope of obscenity liability. "I am hopeful," said Pilpel, "that the Memphis and Cincinnati cases may give the Court an opportunity to take out whole categories of people which, while it doesn't get what we want, is a step in the right direction."

Steve Scheuer then asked Pilpel if the same local community standards rule would apply to alleged obscenity on television?

Pilpel replied that the courts have held that broadcasts which are heard in many states can be judged by the laws of the various states. "The only difference between TV and radio and publications,"said Pilpel, "is that Congress could pre-empt the field of electronic media if it wanted to as to obscenity, but I don't think it has."

# # #

Summary Remarks: Richard Heffner

"I wish in a sense that things had been done in reverse. I wish that you people who deal very practically, and with great emotion and with great determination with the issues that have been raised this afternoon had spoken first, and then we theorists -- who are very much concerned about the First Amendment -- I don't relegate it simply to the area of theory -- but those people who spoke this morning had then to address themselves to the very real problems that were raised this afternoon.

"Nat Hentoff said a few moments ago -- about what the two gentlemen up here had to say -- "that's dangerous stuff." Well, that's the expression that was used in '76 --201 years ago -- in transposing the locus of power in an established society. I think that's what these gentlemen up here were talking about -- they were talking about power, they were talking about the creative, energizing power of the media, they were talking about how we became what we are, how we learn what it means to be a human being through the media. And they were noting, as one person noted at the session that I attended late this morning, that we have long since in our society regulated ideas. Now, along come a group of people who say these ideas aren't accurate, aren't acceptable; we're going to impose other ideas upon them. Who is doing violence to the freedom of expression? Those in control at the moment? That seems to be a question that's come up, and I think that's a question that all of us here are going to be obliged to deal with. Yes, it's dangerous stuff as Mr. Hentoff said, and indeed, everything that's been said this morning and this afternoon is dangerous stuff.

"One speaker talked about adding newer ideas rather than abandoning older ideas. If it weren't for the fact that there's probably not world enough and time to do so --that must have been the reaction of some of the people in this room --that idea might be even more embraceable.

"It occurred to me as I listened today that I wish B. F. Skinner were here today, teaching us something about the valuelessness of the concept of the autonomous man; teaching us something more about how we become what we are. Perhaps we would be a little more respectful of those who are so insistent that there be a reconstitution of the ideas that go into the media.

"You began this morning by asking the question: "Is there a line between group expression of opinion--legitimate and desirable participation in the democratic process-- and undesirable pressure on a channel of communication?" As I listened today, and there may be those of you who think otherwise-- to me it seemed clear that the answer was yes, but we don't know where it is. That's dangerous business, again. But we have to keep trying to find out.

"You raised two other questions: "Whose rights are involved?" And it seems quite clear from everything that has been said today--everyone's.

"And the third and last question: "And when?" I suppose the best answer is--all the time. Which makes this a time for all of us, I think, to respond very positively and in every aspect of our lives to the very questions that were raised here today."

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